

MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
Low Income Housing Tax Credit Program

POLICY STATEMENT

**MARRIED INDIVIDUALS LIVING APART**

This policy statement is to clarify the treatment of prospective tenants of Low Income Housing Tax Credit (LIHTC) projects who are married persons but who do not plan to reside with a spouse. In some situations, the income of the prospective resident alone may be within LIHTC guidelines, but with the inclusion of the absent spouse's earnings, the household would be ineligible to reside in an LIHTC unit.

The determination of annual income must be made in a manner consistent with the Department of Housing and Urban Development (HUD) Section 8 guidelines in HUD Handbook 4350.3. While the HUD Handbook does not specifically address the situation discussed above, the following is clear:

1. Spouses are counted as family members [Figure 3-6, Page 3-56]; and
2. "The head, spouse, and co-head must always be listed on the 59 Data Requirements, even if they are temporarily absent" [Part 3-10a(3), Page 3-15]. The "59 Data Requirements" are discussed in Appendix 11 of the Handbook, which outlines the methodology for certifying compliance with HUD's tenant eligibility requirements.

MSHDA's position is that, in the absence of documentation that a spouse is permanently absent, he or she should be considered a "Temporarily Absent Family Member" and that spouse's income and assets must be included as part of household income. The income of permanently absent household members would not have to be included as part of household income. To document that a spouse is "permanently absent", one of the following, in order of preference, must be obtained by the owner/management agent:

- A. A copy of official documentation from a court or official agency providing legal aide indicating that a divorce is in process; or
- B. A copy of a legal separation agreement or official documentation that such is in process; or
- C. A notarized statement\* from the tenant; and one of the following:
  - (1) A statement\*\* from a person who provided counsel to the tenant in an official capacity as part of his or her occupation (i.e. attorney, therapist, marriage counselor, clergy). The statement must be notarized or prepared on the "counselor's" business letterhead. Prepared statements by family members, friends, acquaintances, etc. about informal counsel are specifically excluded as acceptable documentation; or
  - (2) A copy of a legal restraining order or documentation that the tenant has experienced domestic violence; or

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\*The tenant's notarized statement must specifically indicate all of the following:

- (a) The spouses operate as separate households and the absent spouse will not reside in the unit;
- (b) The spouses do not intend to file a joint tax return for the present year or for the calendar year-ending the upcoming twelve-month period. For example, if the tenant is to move into the LIHTC unit in November 1997, the statement must indicate that tax returns are not anticipated to be filed jointly for the years ended 12-31-97 and 12-31-98, and
- (c) The separation is **permanent**.

\*\*The "counselor's" statement must specifically indicate all of the following:

- (a) That the "counselor" has conversed with the prospective tenant regarding the marital situation within the past 30 days; and
- (b) The separation appears to be **permanent**.